

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LAMONT DADE,
Plaintiff,

v.

JAMES PITTS,
Defendant.

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CIVIL ACTION NO. 18-CV-5470

ORDER

AND NOW, this 8th day of February, 2019, upon consideration of *pro se* Plaintiff Lamont Dade's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 7), Prisoner Trust Fund Account Statement (ECF No. 8), Complaint (ECF No. 2), and the Court's February 5, 2019 Order dismissing this case for failure to prosecute (ECF No. 6), it is **ORDERED** that:

1. The Court's February 5, 2019 Order is **VACATED**.
2. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C.

§ 1915(b).

3. Dade, #HW-1246, shall pay the full filing fee of \$350.00 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Dade, an initial partial filing fee of \$18.59 is assessed. The Superintendent or other appropriate official at SCI Houtzdale or at any other prison at which Dade may be incarcerated is directed to deduct \$18.59 from Dade's inmate trust fund account, when such funds become available, and forward that amount to the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106, to be credited to Civil Action No. 18-5470. After the initial partial filing fee is collected and until the full filing fee is paid, the Superintendent or other appropriate official at SCI Houtzdale or at any other prison at which

Dade may be incarcerated, shall deduct from Dade's account, each time that Dade's inmate trust fund account exceeds \$10.00, an amount no greater than 20 percent of the money credited to his account during the preceding month and forward that amount to the Clerk of Court at the address provided above to be credited to Civil Action No. 18-5470.

4. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Houtzdale.

5. The Complaint is **DEEMED** filed.

6. The Complaint is **DISMISSED** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for the reasons set forth in the Court's Memorandum. This dismissal is **without prejudice** to Dade's right to pursue his claims, which are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), in a new lawsuit only if he is successful in challenging his convictions and sentences in state court or federal *habeas* proceedings. Dade may not file an amended complaint in this matter.

7. This case shall remain **CLOSED**.

BY THE COURT:


CHAD F. KENNEY, JR.